

THE LAW OFFICE OF CATHERINE PARK

2300 M STREET, NW

SUITE 800

WASHINGTON, D.C. 20037

PHONE: (202) 973-6479
FAX: (866) 747-7566

E-MAIL: CATHERINE.PARK@CPARKLAW.COM
WEBSITE: WWW.CPARKLAW.COM

March 17, 2008

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FCC Mail Room

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

RE: Filing Supplement to EB's First Interrogatories; EB Docket No. 07-197

Dear Madame Secretary:

Enclosed for filing on behalf of parties Kurtis J. Kintzel, Keanan Kintzel, and all other Entities by which they do business before the Federal Communications Commission, is the original and 3 copies of the Supplement to Answers to Enforcement Bureau's First Interrogatories, and Supplement to Responses to Enforcement Bureau's First Requests for Production of Documents, in the above-referenced matter.

Sincerely,

Catherine Park, Esq.

Catherine Park, Esq.

Enclosures: Original + 3 Copies

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Kurtis J. Kintzel, Keanan Kintzel, and all)	EB Docket No. 07-197
Entities by which they do business before the)	
Federal Communications Commission)	
)	
Resellers of Telecommunications Services)	
)	
To: Chief, Enforcement Bureau (Kris Monteith)		

**SUPPLEMENT TO ANSWERS TO ENFORCEMENT BUREAU'S FIRST
INTERROGATORIES, AND SUPPLEMENT TO RESPONSES TO ENFORCEMENT
BUREAU'S FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS**

Defendants, by and through undersigned counsel, hereby submit this Supplement to Answers to Enforcement Bureau's First Interrogatories, and Supplement to Responses to Enforcement Bureau's First Requests for Production of Documents, as follows:

- a. The information supplied in this Supplement is true to the best of the Defendants' knowledge, information, and belief;
- b. The word usage and sentence structure may be those of the attorney who in fact prepared this Supplement and does not purport to be that of the executing Defendants;
- c. Discovery is ongoing. Defendants reserve the right to add to this Supplement if further information comes to their attention; and
- d. To determine the substance of each Answer/Response herein, Defendants relied upon Kurtis J. Kintzel and/or documents identified in each Answer/Response. As to documents, only those currently in Defendants' possession were relied upon, unless otherwise specified in the Answer/Response. The identifying information for each document should be self-evident in

the Answers/Responses. If no documents are mentioned or identified in an Answer/Response, none were relied upon.

General Objections

Defendants renew all objections contained in the original Answers to Enforcement Bureau's First Set of Interrogatories, which was filed on March 6, 2008, and original Responses to Enforcement Bureau's First Set of Requests for Production of Documents to All Defendants, served upon the Chief, Enforcement Bureau, on March 6, 2008. Nothing in this Supplement is intended as nor shall be construed as a waiver of the applicability of these general objections which are incorporated by reference into each Answer/Response herein.

Defendants object to the Definitions and Instructions of the Enforcement Bureau's First Set of Interrogatories to All Defendants, and the Enforcement Bureau's First Set of Requests for Production of Documents to All Defendants, to the extent that they differ from or purport to set forth requirements in addition to those permitted by Commission Rules and the Federal Rules of Civil Procedure, and to the extent that they purport to apply definitions broader than or different from those permitted by Commission Rules and the Federal Rules of Civil Procedure. Defendants further object to the definitions of "Avatar," "BOI," "Buzz," "U.S. Bell," and "Companies" provided by the Bureau, on the ground that such definitions are overbroad, encompassing entities and individuals clearly beyond the reasonable range of questions purportedly directed to the corresponding named Defendants (respectively, Avatar Enterprises, Inc.; Business Options, Inc.; Buzz Telecom Corp.; U.S. Bell, Inc.; and all Defendant companies collectively).

Defendants additionally object to the interrogatories and requests as overbroad, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence.

Defendants also object to the Bureau's propounding of 52 detailed interrogatory items in one of set of interrogatories (*along with the propounding of a massive Request for Production of Documents*, consisting of 61 voluminous requests, due on the same day as the 52 interrogatory answers), a circumstance that has placed considerable strain on Defendants' financial and personnel resources in the effort to submit complete and meaningful answers.

Nothing in the Answers/Responses herein is intended as nor shall be construed as a waiver of the applicability of these general objections which are incorporated by reference into each Answer/Response.

Answers

Requested Supplement to Answer to Interrogatory No. 6: Are Defendants able to identify the dates and locations of the meetings referred to below? If so, Defendants should supplement their response to Interrogatory No. 6 accordingly.

Answer: The Board of Directors for Buzz Telecom Corp., Business Options, Inc., and Avatar Enterprises, Inc., met nearly every week from 2004 through November 2006. Weekly financial plans were presented to the Board for approval. Issues relating to regulatory, expansion and delivery of products were dealt with. Weekly plans were written up, approved, and put in binders.

The documentation of these meetings in the binders has not been located due to the following circumstances: Buzz Telecom Corp. and Business Options, Inc., vacated their 10,000 feet of office space in 2006, at a time when Kurtis J. Kintzel was out of the country and could not supervise the move. Some documents were stored in Kurtis J. Kintzel's garage in his absence, but at this stage of discovery, it is unknown where they are because the documents were not boxed, and not placed in the garage by Kurtis J. Kintzel, in any event. Mr. Kintzel's house was

sold in a foreclosure sale in January 2008. As Mr. Kintzel had to vacate his residence with little notice, it is unknown at this time whether the documentation of the weekly corporate meetings can be located.

Defendants' deteriorating financial condition, which necessitated moving from 10,000 feet of office space and the sale of Kurtis J. Kintzel's residence in a foreclosure sale, was precipitated, in part, by the unceasing administrative attention focused upon Defendants by the federal government and resulting exorbitant legal fees incurred by Defendants in responding to the allegations. The 2003 Enforcement Bureau proceeding against Business Options, Inc., was extremely costly in terms of legal fees and the time and attention that the executives were forced to devote to the administrative action, rather than to growing the business. In 2002, and coincident with the Enforcement Bureau proceeding through 2003, the Equal Employment Opportunity Commission (EEOC) of the federal government launched an extensive, and, as it was ultimately proved, baseless and unmeritorious proceeding involving sexual harassment allegations against a Buzz Telecom Corp. sales manager. The EEOC action lasted over two years and culminated in a two-week jury trial that Buzz Telecom Corp. won, in a unanimous jury verdict that required very little deliberation.

The Bureau is cautioned that its investigative activities must be based on reasonable allegations of wrongdoing, and that the Bureau must make some effort to verify the allegations (other than to write them down) before launching a full-scale prosecution. The Bureau bears the burden of proof in this proceeding. Defendants are bending over backwards to cooperate anyway, to avoid additional allegations of non-compliance and non-responsiveness.

The Bureau has asserted, over and over again, that it is entitled to impose up to \$1.3 million in penalties against Defendants for single acts or omissions—all the while, the Bureau

has failed to submit *any* of its interrogatory responses under oath so far in this proceeding, *or* in the 2003 proceeding. The Bureau is never punished when it fails to observe the rules, yet Defendants can be assessed \$1.3 million every time they purportedly fail to do so, and can lose a business that took 15 years to build because of legal fees, time and attention of the executives focused on defending against unmeritorious allegations, and unfavorable publicity generated by the mere institution of a prosecution. The Bureau seems to be of the opinion that it can operate as a Congressional investigation, which is hardly a model of due process, rather than a legal proceeding governed by the Administrative Procedure Act. Nothing in the Administrative Procedure Act permits the institution of a prosecution without making some attempt to verify the allegations beforehand.

Requested Supplement to Answer to Interrogatory No. 13: Is the information provided in this response limited to the present? Pursuant to instruction "s" to the Bureau's First Set of Interrogatories to All Defendants, the time period governing the Interrogatories is February 11, 2004 through the present. If Defendants' response to Interrogatory No. 13 is limited to the present, please provide a supplemental response that covers the entire period in question.

Answer: Banking documents showing account numbers and signatures have not been retained. Copies of checks were delivered to the Enforcement Bureau as part of document production for the Responses to Enforcement Bureau's First Set of Requests for Production of Documents. The copies of the checks should show the bank account information. Kurtis J. and Keanan Kintzel were authorized to sign, and perhaps others (but without the banking certificates,

it is impossible to say for certain). Additionally, the following bank account information is produced:

Buzz Telecom Corp. and Business Options, Inc., had accounts at First National Bank of Valparaiso and Chase Bank. The account numbers are unknown at this time.

Avatar Enterprises, Inc., had an account at First National Bank of Valparaiso, and another account at AmSouth Bank (Account No. 0068334524). Avatar Enterprises Inc. currently has an account at Chase Bank, as stated in the original Answers to Enforcement Bureau's First Set of Interrogatories to All Defendants.

Requested Supplement to Answer to Interrogatory No. 15: Please provide address and telephone information for BSG Clearing Solutions.

Answer: BSG Clearing Solutions North America (includes Billing Concepts, Inc.), 7411 John Smith Drive, San Antonio, TX 78229, (888) 393-5854.

Requested Supplement to Answers to Interrogatories Nos. 18, 20, and 38: Pursuant to instruction "o" to the Bureau's First Set of Interrogatories to All Defendants, Defendants are required to provide last known business and residential addresses and telephone numbers for individuals identified in interrogatory responses. Please provide such information for Amy Dixon and Katrina Jackson.

Answer: Last known business addresses are as follows: Katrina Jackson (8380 Louisiana Street, Merrillville, IN 46410). Amy Dixon (Unemployment office in Valparaiso, IN). The foregoing is the last known, and most extensive, contact information available at this time.

Requested Supplement to Answer to Interrogatory No. 19: Do Defendants know (a) the dates of the telephone conversation between Kurtis Kintzel and Steven Hansen of Qwest and the "[t]here-way phone call between" Qwest and Kurtis Kintzel referred to in part "b" of the Response, and (b) the dates of the "numerous phone calls" and e-mails from Buzz to Qwest referred to in part "c" of the Response? If so, Defendants should supplement their response to Interrogatory No. 19 accordingly. Defendants should also supplement their response to Interrogatory No. 19 to set out the dates of each of the e-mails referred to in part "a" of the Response. Finally, at the top of page 18, it appears as though some text is missing. Please provide a corrected copy of that page that includes the missing text.

Answer: The phone calls with Terri Dunnington and Steven Hansen took place in the fall of 2006. More exact dates are unavailable. At the time the Bureau drafted the requested supplemental information to Defendants' response to Interrogatory No. 19, Defendants' document production (as part of the Responses to Enforcement Bureau's First Set of Requests for Production of Documents) had not been routed to the designated Bureau personnel. It is Defendants' understanding that the box of documents was routed to the designated Bureau personnel on March 11, 2008. The documents in the subject category "Qwest" comprise all documents referenced in Defendants' Answer to Interrogatory No. 19. The documents are self-explanatory as to the dates of the e-mails; no other e-mails have been located at this time. The missing text at the top of page 18 is contained in the *service copy* (not courtesy copy) sent to the Bureau on March 6, 2008, via first-class mail. (It is missing from the courtesy copy due to a PDF conversion error caused by the software program.) For your convenience, the text of page 18 is provided in Exhibit A.

Requested Supplement to Answer to Interrogatory No. 22: Defendants should supplement their Response to identify the individual who took over for Elizabeth Ontiveros-Rosas with respect to the referenced wire transfers after she went on maternity leave.

Answer: At this stage of discovery, it seems that Kurtis J. Kintzel would have initiated the wires in the absence of Elizabeth Ontiveros-Rosas.

Requested Supplement to Answer to Interrogatory No. 29: Defendants should supplement their Response to identify the members of the "corporate affairs staff" who "complete[d] the forms for review by Keanan Kintzel, and submit." Additionally, it appears from Defendants' Response to Interrogatory No. 29 that someone other than Amy Dixon may have done "the preparatory work" (since the Response says that Amy Dixon "normally" did such work). Defendants should supplement their Response to Interrogatory No. 29 to explain what is meant by "preparatory work" and to identify who other than Amy Dixon did such work.

Answer: At this stage of discovery, it seems that Kurtis J. Kintzel, Keanan Kintzel, Katrina Jackson, and possibly Gale Perry (Vice President of Administration) may have done preparatory work. "Preparatory work" consisted of gathering billing information, performing calculations, filing, copying, etc.

Requested Supplement to Answers to Interrogatories Nos. 30 and 32: Defendants should supplement their Response to identify specifically which company—Business Options or Buzz Telecom—made which payments.

Answer: Copies of the checks were submitted as part of document production, in the Response to Enforcement Bureau's First Set of Requests for Production of Documents. These

checks were drawn on Business Options, Inc.'s bank accounts. Discovery is ongoing in this proceeding, and Defendants reserve the right to supplement document production. Defendants also submit that the fact that Defendants may not be able to locate copies of checks does not prove that payments weren't made, and certainly doesn't prove liability, or the amount of liability.

Requested Supplement to Answer to Interrogatory No. 35: Interrogatory No. 35 requested that Defendants identify individuals responsible for authorizing and making payments on behalf of the Companies pursuant to the Consent Decree. Defendants' response to this interrogatory identifies the individuals responsible for authorizing such payments but does not identify the individuals responsible for making such payments. Please provide a supplemental response setting forth such information.

Answer: At this stage of discovery, it seems that Keanan Kintzel made the payments on behalf of Business Options, Inc.

Requested Supplement to Answer to Interrogatory No. 44: Please verify that Defendants have no documents responsive to interrogatory No. 44 other than those identified in Defendants' response to that interrogatory.

Answer: At this stage of discovery, it seems that all scripts used by Buzz Telecom Corp. employees were also sent to TOD.

Interrogatory No. 52: (Note to Enforcement Bureau: Defendants' original Answers to Enforcement Bureau's First Set of Interrogatories to All Defendants did not provide an answer to Interrogatory No. 52. It is provided here, for your convenience.)

Identify all external agents, parties, businesses, or individuals (hereafter "external parties") engaged by the Companies to market or sell long distance services to consumers on behalf of the Companies. To the extent that the Companies utilized external parties to market or sell long distance services to consumers on behalf of the Companies:

- a. identify and provide all agreements, contracts, or memoranda of understanding between the Companies and such external parties for the marketing or sale of long distance services;
- b. identify and provide all scripts used by such external parties since the Effective Date of the Consent Decree, as that date is defined in the Consent Decree, for the marketing or sale of long distance telephone services.

Answer: Defendants object to this interrogatory on the ground that it sets forth a compound statement, i.e., in assuming without establishing any foundation that, along with Business Options, Inc., the other entities (Buzz Telecom Corp., U.S. Bell, Inc., and Avatar Enterprises, Inc.) had any obligations of payment with respect to the Consent Decree. Only "parties" to proceedings may negotiate a Consent Order with the Commission, under 47 C.F.R. § 1.93 and § 1.94. Only Business Options, Inc., was a party in the proceeding leading up to the Consent Decree. Only Business Options, Inc., is named as a party in the Consent Order dated February 18, 2004 (FCC 04M-08). Thus, whether Buzz Telecom Corp., U.S. Bell, Inc., and Avatar Enterprises, Inc., had any obligations of payment with respect to the Consent Decree presents a genuine, disputed issue for trial. Defendants also object to the interrogatory as vague and ambiguous, inter alia, as to the phrases "market or sell long distance services" and "on behalf of the Companies," in this context. Notwithstanding the foregoing, and without waiving any

objections, Defendants answer as follows: Telecommunications On Demand, Inc. ("TOD") was utilized. TOD used sub-agents, but the identities of the sub-agents are unknown to Defendants. The Bureau probably should seek the information directly from TOD. The contract with TOD and scripts were mailed to the Bureau with Kurtis J. Kintzel's January 17, 2007 response letter to the Bureau's December 20, 2006 letter of inquiry. The contractual agreement and scripts were also produced by Defendants in the subject categories, "Marketing 1" and "Marketing 2" in their Response to Enforcement Bureau's First Set of Requests for Production of Documents to All Defendants.

Responses

Requested Supplement to Response to Request No. 25: Defendants' Response to Enforcement Bureau's First Set of Requests for Production of Documents to All Defendants contains no response to Request No. 25. Please provide a response.

Request No. 25: All contracts entered into by the Companies with telemarketing firms for the marketing or sale of long distance services on behalf of the Companies.

Response: Defendants object to this request as vague and ambiguous, inter alia, as to the phrases "marketing or sale of long distance services" and "on behalf of the Companies," in this context. Defendants also object that the request is overbroad, irrelevant, not reasonably calculated to lead to the discovery of admissible evidence, and unduly burdensome. Notwithstanding the foregoing, and without waiving any objections, Defendants answer as follows: A responsive document (contract with Telecommunications on Demand, Inc.) is produced in either the subject category "Marketing 1" or "Marketing 2."

Requested Supplement to Privilege Logs: The Bureau has also reviewed Defendants' Responses to Enforcement Bureau's First Set of Requests for Production of Documents to All Defendants. This review was preliminary to the extent that the documents referred to therein have not yet been delivered to counsel for the Bureau. That review reveals a standard set of objections to virtually every one of the document requests—i.e., "Defendants object to this request on grounds of privilege, as vague and ambiguous, overbroad, irrelevant, not reasonably calculated to lead to the discovery of admissible evidence, and unduly burdensome." The privilege log at the end of Defendants' Responses contains entries for only five documents. Please confirm that no other documents were withheld from production on the basis of any of the objections quoted above.

Response: No other documents were withheld from production on the basis of any of the specified objections. Furthermore, the documents "withheld" on the basis of privilege consist merely of redacted handwritten comments from Kurtis J. Kintzel to legal counsel to familiarize legal counsel with the facts of the case. Only the redacted portion has been withheld on the basis of the attorney-client privilege; the documents to which the redacted comments refer have been fully produced.

Exhibit A

Qwest Wholesale Sales Representative, discussing the rescinding of Steven Hansen's letter. Emails dated October 6th and October 10th, 2006, with *Qwest's legal department about allegations of customer complaints, including alleged complainant "Charles Scholpp" (BTN 9703779823), which turned out to be a false accusation against Buzz Telecom Corp.* Three-way phone call between Qwest Staff Paralegal Terri Dunnington and Kurtis J. Kintzel, in which it was discovered that "Charles Scholpp" had made a false accusation against Buzz Telecom Corp.

- c. Qwest's discontinuation of service to Buzz Telecom Corp. customers on November 30, 2006: Buzz Telecom Corp. made numerous phone calls and sent emails to Qwest offering to pay bill in full within 30 days of invoice date. Payment arrangements had been made and approved before (see paragraph a., above). [The contract between Buzz Telecom Corp. and Qwest required payment 30 days from invoice receipt date. A later Addendum created a net-10 timeframe for payment, but there is uncertainty whether the Addendum was ever fully executed. The 30-day due date (rather than net-10) would have given Buzz Telecom Corp. until December 12, 2006 to pay the invoice.] In emails dated November 30, 2006, Cindy Bell, Qwest Wholesale Sales Representative, contacted Kurtis J. Kintzel to inquire whether he would be interested in selling the customer base, and informing him that Qwest's suspension of service to Buzz Telecom Corp. customers was proceeding.
- d. Cindy Bell Meeting: Email dated July 13, 2006 from Kurtis J. Kintzel to Buzz Telecom Corp. employee (Mark Krajewski) informing him that Cindy Bell, Qwest Wholesale Sales Representative, had requested a meeting with Buzz Telecom Corp.

Interrogatory No. 20:

Identify all employees or agents of the Companies who communicated with Qwest regarding: (i) Buzz's or BOI's account status with Qwest; (ii) any complaints regarding Buzz's or BOI's business practices; (iii) the suspension and/or discontinuance of service to Buzz or BOI long distance customers; or (iv) the transfer of Buzz or BOI long distance customers to another switchless reseller.

Answer:

Kurtis J. Kintzel, Amy Dixon, and Elizabeth Ontiveros-Rosas.

DECLARATIONS UNDER PENALTY OF PERJURY

I, Keanan Kintzel, hereby declare under penalty of perjury, the following: I am a Director of Buzz Telecom Corp. I am authorized to make this declaration on behalf of myself and all Defendants (Kurtis J. Kintzel, Keanan Kintzel, and All Entities By Which They Do Business Before the Federal Communications Commission). I have specific knowledge of the events at issue. I have read the foregoing Supplement to Answers to Enforcement Bureau's First Interrogatories, and Supplement to Responses to Enforcement Bureau's First Requests for Production of Documents, and declare that the matters stated herein are true and correct to the best of my knowledge, information, and belief. Executed on March 17, 2008.


(Month, Day, Year)



Keanan Kintzel
Director, Buzz Telecom Corp.

I, Catherine Park, Esq., hereby declare under penalty of perjury, the following: I am legal counsel for all above-named Defendants. I prepared the foregoing Supplement to Answers to Enforcement Bureau's First Interrogatories, and Supplement to Responses to Enforcement Bureau's First Requests for Production of Documents, including all objections. All objections submitted herein are made in good faith, and not interposed for any improper purpose. Executed on March 17, 2008.

(Month, Day, Year)



Catherine Park, Esq.
The Law Office of Catherine Park

Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent for filing on this 17th day of March 2008, by U.S. Mail, first class, to the following:

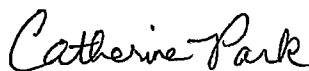
Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

And served by U.S. Mail, First Class, on the following:

Kris Monteith, Chief
Enforcement Bureau
Federal Communications Commission
445 12th Street, SW, Room 7-C723
Washington, D.C. 20554

Richard L. Sippel, Chief Administrative Law Judge
Federal Communications Commission
445 12th Street, SW, Room 1-C861
Washington, D.C. 20554

Hillary DeNigro, Chief
Michele Levy Berlove, Attorney
Investigations & Hearings Division, Enforcement Bureau
Federal Communications Commission
445 12th Street, SW, Room 4-C330
Washington, D.C. 20554



Catherine Park